

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
DEC 5, 2006  
THOMAS K. KAHN  
CLERK

\_\_\_\_\_  
No. 06-13969  
Non-Argument Calendar  
\_\_\_\_\_

D. C. Docket No. 04-03389-CV-4-RDP

EMMA MALONE,  
by and through her father and next friend, James Malone,  
JAMES MALONE, individually,

Plaintiffs-Appellants,

versus

MARSHALL COUNTY BOARD OF EDUCATION,  
LOWELL SMITH,  
AMY HOLCOMB,

Defendants-Appellees.

\_\_\_\_\_  
Appeal from the United States District Court for the  
Northern District of Alabama  
\_\_\_\_\_

**(December 5, 2006)**

Before TJOFLAT, DUBINA and CARNES, Circuit Judges.

PER CURIAM:

In its Memorandum Opinion of June 29, 2006, the district court granted appellees summary judgment on alternative holdings: (1) appellants failed to establish the substantive due process right alleged in their complaint; and (2) assuming they established such right, appellants failed to show that the right was clearly established at the time of appellees' actions. Appellants now appeal the court's ruling. As we agree with the district court's alternative holdings (for the reasons the court gave in its June 29 order), we affirm the court's judgment.

AFFIRMED.